



## CITY OF COSTA MESA

P. O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

December 9, 2021

Sanjit Malia  
Shepard Investments, Inc.  
3590 Cadillac Avenue, Unit B  
Costa Mesa, CA 92626

**RE: ZONING APPLICATION ZA-21-34 (PA-17-38 A5)  
FIFTH AMENDMENT TO CONDITIONAL USE PERMIT PA-17-38 TO ADD A  
NON-STOREFRONT RETAIL (DELIVERY ONLY) USE AT AN APPROVED  
CANNABIS MANUFACTURING AND DISTRIBUTION FACILITY  
3590 CADILLAC AVENUE, UNIT B-D**

Dear Mr. Malia:

City staff's review of your zoning application for the above-referenced project is complete. The application, as described in the attached project description, has been approved, based on the findings and subject to the conditions of approval and code requirements (attached). The decision will become final at 5:00 p.m. on December 16, 2021 unless appealed by an affected party, including filing of the necessary application and payment of the appropriate fee, or called up for review by a member of the City Council.

If you have any questions regarding this letter, please feel free to contact the project planner, Michelle Halligan, at (714) 754-5608 or at [michelle.halligan@costamesaca.gov](mailto:michelle.halligan@costamesaca.gov).

Sincerely,

Scott Drapkin  
Assistant Director of Development Services/Zoning Administrator

Attachments: Report, Applicant Letter, and Approved Conceptual Plan

cc: Engineering  
Fire Marshal

Morton Cadillac, LLC  
21072 Marino Lane  
Huntington Beach, CA 92646

## **PROJECT DESCRIPTION**

### ***Background***

In November 2016, Costa Mesa voters approved Measure X, which allows for cannabis distribution businesses, manufacturing businesses, research and development laboratories, and testing laboratories in Industrial Park (MP) and Planned Development Industrial (PDI) zoned properties north of South Coast Drive and west of Harbor Boulevard, excluding the South Coast Collection (SOCO) property located at 3303 Hyland Avenue. Measure X is codified as Titles 9 and 13 of the Costa Mesa Municipal Code (CMMC).

In 2018, non-medical adult use cannabis became legal in California under the State's Medicinal and Adult-Use Cannabis Regulation and Safety Act (Proposition 64). On April 3, 2018, the City Council adopted Ordinance No. 18-04 to allow adult use cannabis products to be manufactured, distributed, transported, tested, and developed in the same manner and within the same geographic areas as medical cannabis uses pursuant to Measure X.

On November 3, 2020, Costa Mesa voters approved Measure Q, the Costa Mesa Retail Cannabis Tax and Regulation Measure. This measure allows the City to adopt regulations permitting retail cannabis uses within the City, including storefront retail (dispensaries) and non-storefront retail (delivery only). On June 15, 2021, the City Council adopted Ordinances No. 21-08 and No. 21-09 to amend Titles 9 and 13 of the CMMC to establish regulations for legal cannabis storefront and non-storefront retail uses. Ordinance No. 21-08 allows the addition of non-storefront cannabis uses in the MP (Industrial Park) zone by amending the approved Conditional Use Permit (CUP) through a Minor Conditional Use Permit (MCUP).

### ***Project Site / Environs***

The subject 1.2-acre property is zoned MP (Industrial Park). The surrounding properties are also zoned MP. Existing development on the site consists of a 20,732-square-foot multi-tenant industrial building with landscaping, a trash enclosure, and a surface parking lot. A portion of the rear parking lot is behind secured gates.

The subject site is on the east side of Cadillac Avenue, north of Scenic Avenue, and within the City's Measure X area known as the "Green Zone." Pursuant to Measure Q, as described above, the "Green Zone" can be permitted to allow non-storefront retail cannabis uses.

### ***Approved Entitlements***

On November 27, 2017, the Planning Commission approved, on a 5 to 0 vote, Planning Application 17-38, a Conditional Use Permit (CUP) for a cannabis manufacturing facility within a 7,315-square-foot tenant space. The facility was conditionally approved to include extraction of oils from cannabis plants, including processing space, storage, offices, and a conference room. No distribution, cultivation, or dispensing of cannabis was permitted. Transportation of the finished product can only be provided by an approved transport business.

- Staff Report:  
<http://ftp.costamesaca.gov/costamesaca/planningcommission/agenda/2017/2017-11-27/PH-1.pdf>
- Planning Commission meeting video:  
[http://costamesa.granicus.com/player/clip/3098?view\\_id=10&redirect=true](http://costamesa.granicus.com/player/clip/3098?view_id=10&redirect=true)

On February 26, 2018, the Planning Commission approved, on a 3 to 2 vote, Planning Application 17-38 A1, to permit the addition of laboratories/testing and manufacturing/processing facilities as well as increased staffing.

- Staff Report:  
<http://ftp.costamesaca.gov/costamesaca/planningcommission/agenda/2018/2018-02-26/PH-4.pdf>
- Planning Commission meeting video:  
[http://costamesa.granicus.com/player/clip/3148?view\\_id=10&redirect=true](http://costamesa.granicus.com/player/clip/3148?view_id=10&redirect=true)

On September 20, 2018, the Zoning Administrator approved Planning Application 17-38 A2, to allow adult use cannabis manufacturing, in addition to medical cannabis, in accordance with Ordinance No.18-04.

- Staff Report (starting on page 13):  
<https://www.costamesaca.gov/home/showpublisheddocument/34426/636730526401000000>

On August 22, 2019, the Zoning Administrator approved Zoning Application 19-60 (PA-17-38 A3), to modify select conditions of approval reflected in other recent approvals for Measure X uses.

- Staff Report: <https://www.costamesaca.gov/Home/ShowDocument?id=38961>

On August 19, 2021, the Zoning Administrator approved Zoning Application 21-07 (PA-17-38 A4), to add a State distribution license to the operation; distribution meaning transferring cannabis products to wholesalers or retailers.

- Staff Report:  
<https://www.costamesaca.gov/home/showdocument?id=48990&t=637649774868273062>

### ***Applicant Request***

Zoning Application 21-34 is a request for the fifth amendment to the approved CUP (PA-17-38). The applicant requests to add a non-storefront retail use (delivery only) to an existing licensed manufacturing and distribution operation. A State license for non-storefront retail would allow the existing business to deliver products directly to consumers, subject to local conditions of approval and State requirements. Cultivation and storefront retail dispensing of cannabis was prohibited by the approved CUP and subsequent amendment, and would continue to be prohibited following approval of the proposed amendment. Cultivation and storefront retail dispensing of cannabis was prohibited by the approved CUP, subsequent amendments, and would continue to be prohibited following approval of the proposed amendment.

The proposed delivery component would occur within the existing facility; specifically within areas currently dedicated for storage and vehicle loading for the existing approved operations.

## **ANALYSIS**

### ***Non-Storefront Retail Use***

As described in the attached letter, the applicant is proposing to amend their existing CUP to add a non-storefront retail use (delivery). The delivery use area would include underroof and secured product packaging, storage and indoor vehicle loading. Products delivered directly to consumers under State non-storefront retail licenses include finished products such as packaged edibles, packaged flower, packaged concentrates and packaged vape cartridges. State and local operating requirements for non-storefront retail delivery operations are summarized below:

- All employees who deliver cannabis shall have valid identification and a copy of the business' Cannabis Business Permit (CBP) and State license at all times while making deliveries.
- Delivery to consumers is limited to the hours between 7 AM and 10 PM.
- All commercial cannabis retail businesses shall maintain proof of vehicle insurance for any and all vehicles being used to transport cannabis goods as required by State law.
- During delivery, the delivery employee shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers. The delivery request documentation shall comply with State law.
- A licensed delivery employee shall not leave the State of California while possessing cannabis products while performing his or her duties for the cannabis retailer.
- A commercial cannabis retail business shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered, and any other information required by the State.
- A manifest with all information required pursuant to local and State provisions shall accompany any delivery person at all times during the delivery process and delivery hours.
- Any delivery method shall be made in compliance with State law, as amended, including use of a vehicle that has a dedicated GPS device for identifying the location of the vehicle (cell phones and tablets are not sufficient).
- Each delivery request shall be entered into a point-of-sale tracking system and have a receipt prepared by the commercial cannabis retail business with the following information:
  - Name and address of the commercial cannabis retail business.
  - The name of the employee who delivered the order.
  - The date and time the delivery request was made.
  - The complete delivery addresses.
  - A detailed description of the cannabis goods requested for delivery including the weight or volume, or any accurate measure of the amount of cannabis goods requested.



- The total amount paid for the delivery including any fees or taxes.
  - At the time of the delivery, the date and time delivery was made, and the signature of the person who received the delivery.
  - No cannabis delivery vehicle shall display signs, decals or any other form of advertisement.
  - Inspections by an authorized City representative may be conducted anytime during regular business hours.
- Delivery must be made to a physical address that is not on publicly owned land, a school, a day care, or a youth center.
- The delivery employee shall not carry cannabis goods valued in excess of \$5,000 at any time with no more than \$3,000 of cannabis goods that are not already part of a customer order that was processed prior to leaving the premises.
- Delivery must be made in person by a direct employee of the licensed retailer. An independent contractor, third-party courier service, or an individual employed through a staffing agency would not be considered directly employed by the licensed retailer.
- The delivery employee shall confirm the age of the buyer through entering government-issued identification information into an electronic age verification system.

### ***Security***

The applicant provided a professionally prepared security plan for the proposed project. The City's security consultant, HdL Companies, reviewed the proposed security plan amendments for the delivery operations. HdL Companies determined that appropriate security measures were included to address the City's security requirements pursuant to Chapter VI of CMMC Title 9 and State law. As conditioned, the applicant shall submit to the City a list of all vehicles to be used for retail delivery purposes. The list shall identify the make, model, color, license plate number, and registered owner of each vehicle. The applicant shall submit an updated vehicle list each quarter with the required quarterly update to the employee roster pursuant to the CBP.

Since the security plan contains sensitive operational measures that require limited public exposure to remain effective, the plan is not included as an attachment. However, the following is generally a list of measures that are provided in the plan and required by the CMMC:

- Professionally installed and monitored exterior and interior surveillance cameras;
- Professionally installed, maintained, and monitored alarm system;
- Surveillance footage must be maintained for a minimum of 90 days;
- Secured storage of cannabis and cannabis products;
- Sensors that detect entry and exit from all secured areas; and
- Emergency power supply.

### ***Business Plan***

The applicant provided a comprehensive business plan that explained operational procedures and other details related to accommodating the additional delivery use. The business plan was reviewed by staff and the City's security consultant, HdL Companies, and determined to comply with State and local regulations. The business plan is not included

as an attachment because it includes sensitive and proprietary information. The following is a list of some of the topics covered in the business plan:

- Day-to-day operations;
- Personnel training;
- Delivery vehicle requirements;
- Delivery protocols;
- Electronic age verification system;
- Point of sale tracking system; and
- Recordkeeping procedures.

### **CONFORMANCE WITH THE CITY OF COSTA MESA GENERAL PLAN**

The Costa Mesa General Plan establishes the long-range planning and policy direction that guides change and preserves the qualities that define the community. The 2015-2035 General Plan sets forth the vision for Costa Mesa for the next two decades. This vision focuses on protecting and enhancing Costa Mesa's diverse residential neighborhoods, accommodating an array of businesses that both serve local needs and attract regional and international spending, and continuing to provide cultural, educational, social, and recreational amenities that contribute to the quality of life in the community. Over the long term, General Plan implementation will ensure that development decisions and improvements to public and private infrastructure are consistent with the goals, objectives, and policies contained in this Plan.

The following analysis evaluates the proposed project's consistency with specific policies and objectives of the 2015-2035 General Plan.

1. **Policy LU-1.1:** *Provide for the development of a mix and balance of housing opportunities, commercial goods and services and employment opportunities in consideration of the need of the business and residential segments of the community.*

**Consistency:** The proposed use would expand an existing entrepreneurial business in Costa Mesa as allowed pursuant to local and State laws, and provide new employment opportunities in the community.

2. **Policy LU-6.15:** *Promote unique and specialized commercial and industrial districts within the City which allow for incubation of new or growing businesses and industries.*

**Consistency:** The proposed use is part of a growing industry and is proposed in a location as specifically identified for such uses by the City's electorate through Measure X and Measure Q.

### **ENVIRONMENTAL DETERMINATION**

The project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15301 for the permitting and/or minor alteration of Existing Facilities. This project site contains an existing building with an approved CUP for two cannabis-

related State licenses. Lastly, the project is consistent with the applicable General Plan and Zoning designation, and all applicable General Plan policies and zoning regulations.

## **FINDINGS**

- A. The proposed project complies with Title 13, Section 13-29(g)(2), Minor Conditional Use Permit, of the Municipal Code due to the following:

**Finding:** The proposed use, as conditioned, is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.

**Facts in Support of Findings:** The proposed project is to add delivery services to an existing manufacturing and distribution facility. It is consistent with other industrial uses in the immediate vicinity and specifically within the Measure X "Green Zone" area. Compliance with existing and proposed conditions of approval will ensure the delivery use operates without negatively impacting the surrounding properties.

**Finding:** The proposed use and improvements will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

**Facts in Support of Findings:** The proposed use is within an existing building and is consistent with the MP (Industrial Park) zoning designation. The existing and proposed applicable conditions of approval ensure that odor is controlled, and therefore would not be materially detrimental to the health, safety, and general welfare of the public or be otherwise injurious to property or improvements within the immediate neighborhood. Lastly, a professionally prepared and reviewed security plan will be implemented to maintain security at the facility, and includes an interior and exterior monitored video surveillance system.

**Finding:** The proposed use, as conditioned, is consistent with the intent of the zoning code and General Plan land use designation for the property.

**Facts in Support of Findings:** The use is consistent with the General Plan goals and policies as discussed earlier in this report. Further, the proposed use is within an existing building and only modest changes in use are proposed. Additionally, the proposed delivery operations are conditionally permitted in the MP (Industrial Park) zone via MCUP under Ordinance No. 21-08, an implementing ordinance of Measure Q.

- B. The project is exempt from the provisions of the California Environmental Quality Act (CEQA) under Guidelines Section 15301 for Existing Facilities. This project site contains an existing industrial building. The use, as conditioned, is consistent with the applicable General Plan designation and all applicable General Plan policies as well as with applicable zoning designation and regulations.

- C. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

**CONDITIONS OF APPROVAL (PA-17-38 A5)**

- Plng.
1. The use of this property as a cannabis delivery, manufacturing/processing and distribution business shall comply with the approved plans and terms described in this staff report and these conditions of approval. The conditions of approval included herein shall include the conditions of approval for PA-17-38, PA-17-38 A1, PA-17-38 A2, PA-17-38 A3, and PA-17-38 A4, with minor changes to accommodate the additional delivery use.
  2. The applicant shall apply for a Minor Modification to Cannabis Business Permit (CBP) MX-17-0005 to add retail non-storefront.
  3. The applicant shall contact the Planning Division to arrange a Planning inspection of the site. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
  4. Any change in the operational characteristics of the use shall be subject to Planning Division review and may require an amendment to the conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change.
  5. No product distribution shall occur between 12:00 AM and 5:00 AM. Delivery to consumers is limited to the hours between 7:00 AM and 10:00 PM.
  6. The subject business shall not engage in cultivation of cannabis or the retail storefront sale of cannabis products, in any form.
  7. The subject business shall comply with the operating requirements for non-storefront delivery listed in State law and CMMC Title 9, Chapter VI, Section 9-495(i), except for No. 4, which applies only to delivery conducted from a retail storefront, not from a manufacturing or distribution business.
  8. Business identification signage shall be limited to that needed for identification only. Business identification signage shall not include any references to cannabis, whether in words or symbols. All signs shall comply with the CMMC. No sign shall be installed until the owner/operator or its designated contractor has obtained any permit required from the City.
  9. A Cannabis Business Permit may be revoked upon a hearing by the Director of Development Services pursuant to Section 9-120 of the Municipal Code for failing to comply with the terms of the permit, the applicable provisions of the Municipal Code, State law or regulation and/or any condition of any other permit issued pursuant to this code. Revocation of the Cannabis Business Permit shall trigger the City's proceedings to revoke the CUP and its amendments. The MCUP granted herein shall not be construed to allow any subsequent owner/operator to continue operating under PA-17-38 A5 until a valid Cannabis Business Permit is received from the City of Costa Mesa.
  10. The uses authorized by this Conditional Use Permit must be conducted in accordance with all applicable State and local laws, including, but not



limited to compliance with the most current versions of the provisions of the California Code of Regulations that regulate the uses permitted hereby. Any violation thereof shall be a violation of the conditions of this permit and may be cause for revocation of this permit.

11. The operator shall maintain free of litter all areas of the premises under which applicant has control.
12. The use shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The operator shall institute security and operational measures deemed necessary by Planning and other City Departments to comply with this requirement.
13. The applicant shall defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any lawsuit, claim, action, or proceeding (collectively referred to as "proceeding") brought against the City, its elected and appointed officials, agents, officers or employees arising out of, or which are in any way related to, the applicant's project, or any approvals granted by City related to the applicant's project. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the applicant's obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this section. City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for all such costs incurred by City.
14. If any section, division, sentence, clause, phrase or portion of this approval is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.
15. Prior to occupancy, the applicant shall provide a scaled and dimensioned digital floor plan(s) for the tenant space to the Planning Division.
16. Applicant, including any employee thereof, shall not sell, distribute, furnish, and/or otherwise provide any cannabis or cannabis product under its possession and/or control to any person, firm, corporation, group or any other entity, unless that person or entity possesses all currently valid permits and/or licenses required by both the State of California and applicable local governmental entity to both lawfully receive such cannabis and to engage in a "cannabis activity" as defined by CMMC sec. 9-485. Applicant is charged with a duty to, and shall first verify, that the recipient, whether located in the City or elsewhere, of any cannabis or cannabis product so sold, distributed, furnished, and/or otherwise provided by or on behalf of Applicant, possesses all required permits and/or licenses therefore.
17. No loading and unloading of cannabis products into the vehicles shall take place outside of camera view. Video surveillance cameras shall be installed on the exterior of the building with direct views of the exterior roll-up door. If outdoor vehicle loading is proposed in the future, vehicle loading and

unloading shall only take place in designated parking spaces within direct unobstructed view of surveillance cameras, located in close proximity to the product access door, as shown on an exhibit approved by the Director of Development Services or designee. No loading and unloading of cannabis products into the vehicles shall take place outside of camera view. Video surveillance cameras shall be installed on the exterior of the building with direct views of the exterior roll-up door and loading areas. Any modifications or additional vehicle loading and unloading areas shall be submitted to the Director of Development Services or designee for approval.

- CID
18. When Type 11 distribution is conducted by a third party company, the loading area shall be free and clear of any cannabis products whenever the roll-up doors are open. Prior to a distributor's arrival, distributors are required to give notice to authorized facility personnel. Upon arrival, authorized facility personnel shall escort the distributor vehicle to the loading area. Third parties are prohibited from providing delivery services for the Type 9 non-storefront retail (delivery) license.
  19. The owner/operator shall obtain and maintain at all times during the term of the permit comprehensive general liability insurance and comprehensive automotive liability insurance protecting the permittee in an amount of not less than one million dollars (\$1,000,000.00) per occurrence, combined single limit, including bodily injury and property damage and not less than one million dollars (\$1,000,000.00) aggregate for each personal injury liability, products-completed operations and each accident, issued by an insurance provider admitted and authorized to do business in California and shall be rated at least A-:viii in A.M. Best & Company's Insurance Guide. Proof of said insurance must be provided to the Planning Division before the business commences operations. Any changes to the insurance policy must be submitted to the Community Improvement Division within 10 days of the date the change is effective.
  20. The operator shall maintain a valid Cannabis Business Permit and a valid Business License at all times. The original Cannabis Business Permit application number associated with this address is MX-17-05. Upon issuance, the Cannabis Business Permit will be valid for a two-year period and must be renewed with the City prior to its expiration date, including the payment of permit renewal fees. No more than one Cannabis Business Permit may operate at this tenant space.
  21. No person may engage in any cannabis business or in any cannabis activity within the City including manufacture, processing, laboratory testing, transporting, delivery, distribution, or sale of cannabis or a cannabis product unless the person:
    - a. Has a valid Cannabis Business Permit from the City
    - b. Has paid all Cannabis Business Permit and all application fees and deposits established by resolution of the City Council, including annual Community Improvement Division Inspection deposits.
    - c. Has obtained all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such cannabis business intends to operate.

- d. Has obtained a City business license pursuant to Chapter I of the Municipal Code.
  - e. Has met all requirements of Community Improvement Division regarding the property.
  - f. Has obtained any and all licenses required by State law and/or regulations.
  - g. Has satisfied all conditions of approval of this MCUP.
- 22. Cannabis shall not be consumed on the premises at any time, in any form.
  - 23. No outdoor storage of cannabis or cannabis products is permitted at any time.
  - 24. All cannabis and cannabis products tested, sold, distributed and/or manufactured pursuant to this CUP shall be transported by persons licensed to do so and shall only be sold, distributed, transported or otherwise furnished to facilities operating in full conformance with all applicable State and local laws and regulations. The discovery of a cannabis product originating from this facility at any unpermitted or otherwise unlawful cannabis facility or operation, including a dispensary, may be considered as evidence in any action to revoke, suspend or modify this CUP and/or the corresponding Cannabis Business Permit that is based on whole or in part on this condition of approval or any related provision of the Municipal Code.
  - 25. The sale, dispensing, or consumption of alcoholic beverages on or about the premises is prohibited.
  - 26. Persons under the age of twenty-one (21) years shall not be allowed on the premises of this business. It shall be unlawful and a violation of this CUP for the owner/operator to employ any person who is not at least twenty-one (21) years of age.
  - 27. The owner/operator shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
  - 28. No cannabis or cannabis products, or graphics depicting cannabis or cannabis products, shall be visible from the exterior of this property, or on any of the vehicles owned or used as part of the cannabis business.
  - 29. Each entrance to the business shall be visibly posted with a clear and legible notice stating the following:
    - a. That smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the cannabis business is prohibited.
    - b. That no person under the age of twenty-one (21) years of age is permitted to enter upon the premises.
    - c. That loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises is prohibited.
  - 30. Odor control devices and techniques shall be incorporated to ensure that odors from cannabis are not are not detected outside the property, anywhere on adjacent property or public right-of-way, or within any other units located within the same building as the cannabis business. Building and mechanical permits must be obtained from the Building Division prior to work commencing on any part of the odor control system.
  - 31. The final Security Plan and Safety Plan shall be consistent with the approved building plans.

32. Every manager, supervisor, employee or volunteer of the cannabis business must submit fingerprints and other information specified on the Cannabis Business Permit for a background check by the Costa Mesa Police Department to verify that person's criminal history.
  - a. No employee or volunteer may commence paid or unpaid work for the business until the background checks have been approved.No cannabis business or owner thereof may employ any person who has convicted of a felony within the past 7 years, unless that felony has been dismissed, withdrawn, expunged or set aside pursuant to Penal Code sections 1203.4, 1000 or 1385, or who is currently on probation or parole for the sale, distribution, possession or manufacture of a controlled substance.
33. All employees must wear an identification badge while on the premises of the business, in a format proscribed by the City Manager. Badges must clearly visible and worn on outermost clothing and above the waist in a visible location.
34. Should any employee, volunteer or other person who possess an identification badge be terminated or cease their employment with the business, the applicant shall return such identification badge to the Community Improvement Division within 24 hours, not including weekends and holidays.
35. Inspections of this cannabis business by the City will be conducted, at a minimum, on a quarterly basis. Code Enforcement officers, the Building Official and/or the Fire Marshal may enter and inspect the location of this business between the hours of 8 a.m. and 5 p.m. Monday through Friday upon 24 hours' telephonic notice to the owner or operator, to ensure compliance with this CUP.
36. The City Manager or his or her designees may enter this business at any time during the hours of operation without notice, and inspect the location of this business as well as any recordings and records required to be maintained pursuant to Title 9, Chapter VI or under applicable provisions of State law.
37. Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a cannabis business, such revocation or termination shall also revoke or terminate the ability of a cannabis business to operate within the City. This CUP will expire and be of no further force and effect if any State issued license remains suspended for a period of 6 months. Documentation of three violations during routine inspections or investigations of complaints shall result in the Community Improvement Division scheduling a hearing before the Director of Development Services to consider revocation of the MCannabis Business Permit.
38. The business must obtain any and all licenses required by State law and/or regulation prior to engaging in any cannabis activity at the property.

- Finance
39. This business operator shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees and permits required under state and local law. This business operator shall cooperate with the City with respect to any reasonable request to audit the cannabis business' books and records for the purpose of verifying compliance with the CMMC and the CUP, including but not limited to a verification of the amount of taxes required to be paid during any period.
40. Records and recordkeeping.
- The owner/operator of this cannabis business shall maintain accurate books and records, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis, or at any time upon reasonable request of the City, the owner/operator shall file a sworn statement detailing the number of sales by the cannabis business during the previous twelve month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid.
  - The owner/operator shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the cannabis business. The register required by this condition shall be provided to the City Manager upon a reasonable request.
  - The owner/operator shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the production or manufacturing, laboratory testing and distribution processes. Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPPA), the owner/operator shall allow City officials to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City.
- The owner/operator shall have in place a point-of-sale tracking system to track and report on all aspects of the cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale). The owner/operator shall ensure that such information is compatible with the City's record-keeping systems. The system must have the capability to produce historical transactional data for review by the City Manager.
41. Pursuant to Title 9, Chapter VI It is unlawful for any person having responsibility for the operation of a cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a cannabis business under this chapter or

under State or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsifies any records, recordings or other documents required to be maintained by a cannabis business under this chapter or under State or local law.

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| Fire   | 42. Comply with the requirements of the 2019 California Fire Code, including the 2019 Intervening Update and referenced standards as amended by the City of Costa Mesa.  |
|        | 43. A copy of the approved Safety Plan shall be maintained onsite at all times, and it shall be available at the request of any City Official.   |
|        | 44. Any change in equipment, operation, or hazard shall be submitted to the City for review and approval prior to the change taking place.   |
| Police | 45. Prior to issuance of the amended CBP, the applicant shall submit to the City a list of all vehicles to be used for retail delivery purposes. The list shall identify the make, model, color, license plate number and registered owner of each vehicle. The applicant shall submit an updated vehicle list each quarter with the required quarterly update to the employee roster pursuant to the CBP. The number of vehicles parked onsite in commonly-held parking areas shall not exceed the number of available onsite surplus parking spaces. Delivery vehicles not owned by the employees shall not be parked on City streets when not in use. |

### **CODE REQUIREMENTS**

The following list of State and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- |        |  |
|--------|--|
| Pllng. | 1. Approval of the planning/zoning application is valid for two years from the effective date of this approval and will expire at the end of that period unless applicant establishes the use by one of the following actions: 1) a building permit has been issued and construction has commenced, and has continued to maintain a valid building permit by making satisfactory progress as determined by the Building Official, 2) a certificate of occupancy has been issued, or 3) the use is established and a business license has been issued. A time extension can be requested no less than 30 days or more than sixty (60) days before the expiration date of the permit and submitted with the appropriate fee for review to the Planning Division. The Director of Development Services may extend the time for an approved permit or approval to be exercised up to 180-days subject to specific findings listed in Title 13, Section 13-29 (k) (6). Only one request for an extension of 180 days may be approved by the Director. Any subsequent extension requests shall be considered by the original approval authority. |
|        | 2. Hours of construction shall comply with Section 13-279, Title 13, of the Costa Mesa Municipal Code.   |
|        | 3. Street address shall be visible from the public street and/or shall be displayed on the freestanding sign. If there is no freestanding sign, the street address may be displayed on the fascia adjacent to the main entrance or on another prominent location. When the property has alley  |



access, address numerals shall be displayed in a prominent location visible from the alley. Numerals shall be a minimum twelve (12) inches in height with not less than three-fourth-inch stroke and shall contrast sharply with the background. Identification of individual units shall be provided adjacent to the unit entrances. Letters or numerals shall be four (4) inches in height with not less than one-fourth-inch stroke and shall contrast sharply with the background.

4. Any mechanical equipment such as air-conditioning equipment and duct work shall be screened from view in a manner approved by the Planning Division.
5. Trash enclosure(s) or other acceptable means of trash disposal shall be provided. Design of trash enclosure(s) shall conform to City standards.
6. Vehicle standing, loading and unloading shall be conducted so as not to interfere with normal use of streets, sidewalks, driveways and on-site parking.
7. No vehicle loading area shall encroach into a required building setback along a public right-of-way.
- Bldg. 8. Comply with the requirements of the following adopted codes: 2019 California Residential Code, 2019 California Building Code, 2019 California Electrical Code, 2019 California Mechanical Code, 2019 California Plumbing Code, 2019 California Green Building Standards Code and 2019 California Energy Code (or the applicable adopted, California Residential Code, California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Green Building Standards and California Energy Code at the time of plan submittal or permit issuance) and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa. Requirements for accessibility to sites, facilities, buildings and elements by individuals with disability shall comply with chapter 11B of the 2019 California Building Code.
9. The conditions of approval and ordinance or code provisions of Planning Application 17-38 A5 (ZA-21-34) shall be blueprinted on the face of the site plan as part of the plan check submittal package when building permits are necessary.
10. Plans shall be prepared by a California licensed Architect or Engineer. Plans shall be wet stamped and signed by the licensed Architect or Engineer prior to the issuance of building permits.
- Fire 11. Equipment shall comply with California Building and Fire Code requirements, including, but not limited to, the requirement that equipment be approved by a recognized testing laboratory for the specific use.
12. Comply with the requirements of the 2016 California Fire Code, including the 2016 Intervening Update and referenced standards as amended by the City of Costa Mesa.
13. Quarterly Fire & Life Safety Inspections will be conducted by the Community Risk Reduction Division to verify compliance with the approval operation. The applicant will pay for the inspection according to the Additional Required Inspections as adopted in the Fee Schedule.

14. Annual Fire & Life Safety Inspections will be conducted by the Fire Station Crew for emergency response pre-planning and site access familiarization. The applicant will pay for the inspection according to the adopted Fee Schedule.
15. Cannabis liquid or solid waste must be made unusable and unrecognizable prior to leaving a secured storage area and shall be disposed of at a facility approved to receive such waste.
- Bus. 16. All contractors and subcontractors must have valid business licenses to do  
Lic. business in the City of Costa Mesa. Final inspections, final occupancy and utility releases will not be granted until all such licenses have been obtained.

August 12, 2021

Costa Mesa Development Services  
77 Fair Drive  
Costa Mesa, CA 92626  
(714) 754-5270

RE: Shepard Investments, Inc. (DBA Oil Haus) Applicant Letter for Commercial Cannabis Retail Non-Storefront Business Pre-Application

To the City of Costa Mesa,

We are writing this Applicant Letter as part of our Minor Conditional Use Permit Amendment to add a non-storefront retail (delivery) use to our existing manufacturing and distribution operation at the at 3590 Cadillac Units B, C, D Costa Mesa, CA 92626.

Oil Haus is primarily a manufacturing company dedicated to the production and sale of cannabis extracts, oils and concentrates. We partner with licensed cultivators to source high quality cannabis flower and cannabis by-product process and then refine those raw materials into premium finished products of the highest purity. We also have a distribution arm where we are able to procure bulk raw materials directly from cultivators rather than acquiring them through a third party. This gives us maximum oversight of quality assurance and control to ensure that all of our raw materials and finished products adhere to and exceed the minimum requirements of State laboratory testing regulations, thus creating the most beneficial products for the end user. Now that our manufacturing and distribution operations have achieved optimal performance and efficiency, we are adding a delivery service to our operation in an effort to sell our products direct to consumer and expand access to our premium products all over Orange County.

The proposed hours of operation for the Delivery Service are 7:00am - 10:00pm, which are within the designated hours of operation window of 7:00am – 10:00pm established by the City of Costa Mesa Ordinance No. 2021-09 § 9-495(h)(4). We have amended our Business Plan and Security Plan to include Delivery within our operation's overall scope and provided the updated documentation with this pre-application.

We currently employ one (1) Master Extractor, three (3) Full-Time Packager and five (5) Part-Time Packagers for our Manufacturing Department along with one (1) Distribution Manager and three (3) Distribution Technicians for our Distribution Department for a total of thirteen (13) employees. We anticipate hiring one (1) Delivery Manager, one (1) Full-time Dispatcher, one (1) Part-time Dispatcher, one (1) Full-time Delivery Driver and two (2) Part-Time Delivery Drivers for our proposed Delivery Service. This increases our total number of employees for all three business departments from thirteen (13) to eighteen (19).

Our approved Conditional Use Permit encompasses a commercial cannabis facility of licensed premises. There is also a Common Area for all three licenses that amasses 603 sqft and includes a shared Break Room, a Shared Lobby and two Rest Rooms, one of which meets all requirements of the Americans with Disabilities Act. There are no proposed changes to the property exterior, and the existing 50 parking spaces are enough to accommodate the increased level of vehicle traffic from Delivery operations.

In addition to the summary provided above, we have developed a business plan for our retail non-storefront operations which is an addition to the business plan provided for our Manufacturing and Distribution operations. The delivery business plan provides all of the business plan requirements outlined in the Measure X application. We also amended our security plan to include retail non-storefront activities and have made no changes to the safety plan as the delivery will not handle any hazardous materials. These materials can be found in the revised document section of this application.

We look forward to bringing the City of Costa Mesa premiere commercial cannabis that provides an unparalleled customer experience and various additional community benefits.

Sincerely,



Shepard Investments, Inc.

-34

**SUBJECT TO CONDITIONS**

EPT

DATE 12-9-2024



01

A1.0

**Total**  
**SITE PLAN**

Existing Manufacturing Distribution Facility  
Proposed Addition of Non-Storefront Retail (Delivery)  
**SHEPARD INVESTMENTS, INC.**  
Unit B: Manufacturing  
Unit C: Distribution  
Unit D: Non-Storefront Retail (Delivery)  
3590 Cadillac Ave, Costa Mesa CA 92626

31900 Cushing Ave.  
Culver City, CA 90230

REVISIONS	
NO.	DATE DESCRIPTION
<u>A</u>	08/07/2001 PLAN CHECK SUBMITTAL

PI PRINT

8152 PAINTER AVENUE, SUITE 202  
WHITTIER, CA 90602  
Telephone: (562) 632-1630

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SEAL

SA  
DESIGN  
CONCEPTS